



## Decision

**Matter of:** Intermetrics, Inc.

**File:** B-259254.2

**Date:** April 3, 1995

Kevin P. Connelly, Esq., Michael B. Hubbard, Esq., and Marc S. Gold, Esq., Seyfarth, Shaw, Fairweather & Geraldson, for the protester.

Camela J. Mazza, Esq., Philip M. Dearborn III, Esq., and Antonio R. Franco, Esq., Pilliero, Mazza & Pargament, for AMCOMP Corporation, an interested party.

Gregory H. Petkoff, Esq., and P. Alan Luthy, Esq., Department of the Air Force, for the agency.

Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. A contracting agency may reasonably use informal, unaudited "rate check" information from the Defense Contract Audit Agency (DCAA) in assessing the realism of an offeror's proposed indirect cost rates, where this is the best information available and there is no showing that the information provided by DCAA was erroneous.

2. Protest that the contracting agency did not note the awardee's failure to cost certain items promised in the awardee's technical proposal, and therefore improperly accepted the awardee's assertedly understated indirect rates, is denied, where there is no possibility that the protester was prejudiced because the awardee's substantial cost advantage would not narrow in any significant way, even assuming the protester is correct.

3. In a negotiated procurement in which the solicitation instructed offerors to discuss their innovative approaches, the contracting agency's assessment of whether an offeror's

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\*The decision issued on April 3, 1995, contained confidential or source selection sensitive information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

technical approach was innovative as part of its technical evaluation did not amount to the use of an unstated evaluation factor.

4. The protester was not prejudiced by the agency's erroneous, disparate adjectival rating of the protester's and awardee's proposals under a relatively minor evaluation subfactor where the source selection authority in making an award selection considered the actual proposal strengths of each firms' proposal under this subfactor.

5. The awardee satisfied a solicitation requirement that the offerors provide resumes for key personnel and include statements of commitment and/or availability, where the awardee provided resumes for current employees as key personnel and stated that these employees were currently available; the awardee did not mislead the agency where, in addition to providing resumes for its current employees, it also informed the agency that, as encouraged by the solicitation, it would recruit the incumbent's employees, including key personnel.

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#### DECISION

Intermetrics, Inc. protests the award of a contract to AMCOMP Corporation under request for proposals (RFP) No. F08635-94-R-0019, issued by the Department of the Air Force for operation, maintenance, test and evaluation services supporting the agency's global positioning system (GPS).

We deny the protest.

The RFP, issued as a small business set-aside, sought fixed-prices for a phase-in period, and proposed costs for a 2-year basic contract period with three 1-year option periods, to support the agency's 46th Test Group, Holloman Air Force Base (AFB), New Mexico, in activities related to the GPS. The solicitation informed offerors that the GPS was a space-based radio system that provides worldwide navigation data to the Department of Defense and other groups. The contractor will support the 46th Test Group's operation/maintenance, research, development, test and evaluation of integrated GPS navigation and guidance systems at Holloman AFB, Edwards AFB, California, and other locations worldwide.

The cost reimbursement, basic and option periods were divided into a "core" effort and a "task order" effort. For the core effort, offerors were required to provide their

proposed manning levels and skill mix;<sup>2</sup> to explain their cost buildup, including applicable labor and indirect rates; and to provide resumes for proposed key personnel, "showing commitment and/or availability."<sup>3</sup> For the task order effort, the RFP set forth the manning categories and estimated hours against which offerors were to provide their burdened labor rates. The RFP provided minimum educational and experience qualifications for each of the labor categories.

Offerors were informed that award would be made on a "best value" basis, based upon an integrated assessment of the offerors' proposals under stated specific evaluation factors and general considerations, and considering the offerors' evaluated proposal and performance risks.<sup>4</sup> The following evaluation factors and subfactors were identified:

#### Technical

1. Satellite Reference Station/Mobile Reference Station
2. Test Support
3. Laboratory Simulation
4. Host Vehicle Simulation
5. Special Applications
6. GPS Bulletin Board Service

#### Management

1. Program Management
2. Phase-in Plan
3. Training and reference library
4. Sample Task Order

#### Cost/Price

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<sup>2</sup>The RFP set forth the incumbent contractor's current manning level by labor category.

<sup>3</sup>The RFP did not require resumes or statements of commitments and/or availability for proposed non-key personnel.

<sup>4</sup>The RFP provided that proposal risk would assess the risk associated with the offeror's proposed approach as it relates to accomplishing the requirements of the solicitation and that performance risk would assess the probability of the offeror successfully accomplishing the proposed effort based on the offeror's demonstrated present and past performance.

Offerors were informed that the technical, management, and cost/price factors were listed in descending order of importance. Within the technical factors, the first four subfactors were stated to be of equal importance and of more importance than the special applications subfactor, which was of more importance than the GPS bulletin board service subfactor. The management subfactors were stated to be in descending order of importance. The RFP provided that each of the evaluation factors and subfactors would be assessed for soundness of approach, as well as for understanding of, and compliance with, the RFP requirements. The RFP also provided that under the management factor, "key personnel qualifications will be evaluated using the assessment criteria of currency, depth of experience and certification of personnel availability." Offerors were informed that while cost/price would not be specifically rated or scored, it would be evaluated for realism, reasonableness, and completeness.

The following general considerations were also provided, in relative order of importance: software development/capacity review, compliance with solicitation terms and conditions, and pre-award survey results. The general considerations were stated to be of lesser importance than the specific evaluation factors.

The Air Force received four proposals, including those of Intermetrics, the incumbent contractor, and AMCOMP. All four proposals were determined to be within the competitive range. Written discussions were conducted, and best and final offers (BAFO) were submitted.

AMCOMP's and Intermetrics's BAFOs were the highest rated, each being evaluated as acceptable under the technical and management evaluation factors and as presenting low proposal and performance risk. Regarding Intermetrics's proposal, the agency's technical evaluators noted as a proposal strength Intermetrics's specific experience and familiarity with the GPS system; the evaluators also noted, however, that Intermetrics's proposal's approach consisted largely of a continuation of its current contract approach and offered few innovative improvements.<sup>5</sup> Regarding AMCOMP's proposal, the evaluators found that AMCOMP offered substantial related experience and good technical knowledge of GPS, test planning, and test methodologies. In contrast to Intermetrics's proposals, AMCOMP's proposal was found to reflect innovative approaches in a number of areas. While

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<sup>5</sup>Intermetrics's proposal was rated "exceptional" under the special applications subfactor on the basis of Intermetrics's innovative approach, but was only considered acceptable for the other subfactors.

AMCOMP's proposed phase-in plan and approach to training and for the reference library were evaluated as proposal strengths, the evaluators noted that AMCOMP's proposal indicated some lack of understanding with regard to the satellite reference station/mobile reference station subfactor.

The Air Force also determined that each offeror submitted labor hours that were commensurate with the RFP's core effort requirements and that the offerors' proposed burdened labor rates for the core and task order efforts were realistic and reasonable. AMCOMP's and Intermetrics's evaluated total BAFO costs for the core effort, including their phase-in prices, maximum award fees, and designated amounts for travel and material, were as follows:

AMCOMP	\$7,635,000 <sup>7</sup>
Intermetrics	\$10,639,000

The Air Force made no adjustments to the offerors' proposed costs for cost realism, but found both proposals were realistic. The source selection authority (SSA) was briefed on the results of the technical and cost evaluations, and selected AMCOMP's offer as the most advantageous to the government. While the SSA recognized that Intermetrics's offer received a "slightly higher technical rating," the SSA concluded that Intermetrics's higher technical rating did not justify its 39-percent higher cost for the core effort. Award was made to AMCOMP and this protest followed.

Intermetrics first challenges the Air Force's cost realism evaluation of AMCOMP's proposal and, in particular, AMCOMP's indirect cost rates. Intermetrics asserts that the agency did no more than obtain an informal rate check from the Defense Contract Audit Agency (DCAA) and that the Air Force failed to ensure that AMCOMP's proposed indirect cost rates were consistent with its technical proposal. Intermetrics also asserts that the agency's cost evaluation team did not independently assess the sufficiency of AMCOMP's proposed manning.

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<sup>6</sup>The RFP did not require offerors to cost the task order effort. The agency, however, calculated a total cost for the task order effort by taking an arithmetic average of each offeror's proposed task order rates and multiplying that against the maximum number of labor hours the RFP allowed for task orders. Based on this calculation, the Air Force determined that there would be a more than \$8 million difference between the firms' proposed total costs for both the core and task order efforts.

<sup>7</sup>In its BAFO, AMCOMP [DELETED].

When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs of contract performance are not controlling because the offeror's estimated costs may not provide valid indications of the final actual costs that the government is required, within certain limits, to pay. Federal Acquisition Regulation (FAR) § 15.605(d); Purvis Sys. Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132. Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. CACI, Inc.-Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542. Because the contracting agency is in the best position to make this cost realism determination, our review is limited to determining whether the agency's judgment in this area is reasonably based and not arbitrary. General Research Corp., 70 Comp. Gen. 279 (1991), 91-1 CPD ¶ 183, aff'd, American Management Sys., Inc., Department of the Army--Recon., 70 Comp. Gen. 510 (1991), 91-1 CPD 492.

The record shows that the agency, in assessing the cost realism of the offerors' proposals: (1) evaluated each offerors' understanding of solicitation requirements for the core effort and whether the offerors' proposed labor hours were commensurate with their proposed approach; (2) compared the offerors' proposed manning for the core effort; (3) compared the offerors' proposed direct labor rates for each labor category; and (4) checked offerors' proposed indirect rates with DCAA. Based on this review, the agency determined that AMCOMP understood the requirements for the core effort and proposed sufficient manning for its technical approach; that AMCOMP's core effort manning was comparable to that of the other offerors; that AMCOMP's proposed unburdened direct labor rates were comparable to that of the other offerors; and that AMCOMP's proposed indirect rates were in line with what DCAA expected from the company.

Intermetrics complains that AMCOMP's proposed indirect rates are understated, and that AMCOMP reduced the indirect cost rates proposed in its BAFO from those proposed in its initial proposal and from those previously proposed on other

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<sup>8</sup>AMCOMP's core effort manning was approximately [DELETED] percent less than that offered by Intermetrics.

<sup>9</sup>Intermetrics initially argued that AMCOMP's unburdened direct labor rates must be understated. The agency's report revealed that AMCOMP's direct labor rates were on average [DELETED] than Intermetrics's. Intermetrics did not further pursue this argument.

government contracts. Intermetrics also claims that the indirect rates are not consistent with a number of representations made in AMCOMP's technical proposal. For example, Intermetrics asserts that the breakdown of AMCOMP's indirect cost pool indicates that AMCOMP has not included sufficient money for items such as its GPS training program, employment benefits, health care benefits, recruiting program, or professional conferences, notwithstanding its technical proposal's specific promises of such benefits. Intermetrics also complains that AMCOMP promised to lease a dedicated telephone line from New Mexico to its corporate headquarters in California, but failed to provide any cost for this promise, and that AMCOMP overstated its total direct labor cost base, which had the effect of understating AMCOMP's indirect cost rates.

AMCOMP explains that the reduction in its indirect cost rates was attributable to the significant increase in its direct labor costs, which is the result of its increasing work force. The record shows that AMCOMP's indirect cost rates are calculated as a [DELETED]. Thus, increases in total direct labor costs reduce AMCOMP's overhead and general and administrative (G&A) rates.

As noted above, the Air Force verified AMCOMP's indirect rates, which are [DELETED] those of Intermetrics's,<sup>10</sup> by checking those rates with DCAA. DCAA informed the Air Force that AMCOMP's rates were comparable to what DCAA expected, given AMCOMP's increasing business base. Intermetrics replies that a DCAA rate check can never substitute for a "complete" cost realism analysis, which in Intermetrics's view would apparently include an analysis of the indirect and direct cost pools from which the indirect rates are calculated.

We have found that an agency may reasonably use informal "rate check" information from DCAA in connection with the agency's cost realism analysis, even though such information is essentially informal unaudited cost information, where this is the best information available. See Radian, Inc., B-256313.2; B-256313.4, June 27, 1994, 94-2 CFD ¶ 104. There is no requirement that an agency conduct an in-depth cost analysis or independently verify each and every item in conducting its cost realism analysis; rather, the agency must employ a methodology that is reasonably adequate and

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<sup>10</sup> AMCOMP proposed [DELETED] percent for its field overhead and [DELETED] percent for its general and administrative (G&A) rates for a combined indirect rate of [DELETED] percent, while Intermetrics proposed [DELETED] percent for its overhead and [DELETED] percent for its G&A rates for a combined rate of [DELETED] percent.

provides some measure of confidence that the rates proposed are reasonable and realistic. Id. On the other hand, we will not find reasonable an agency's cost realism analysis where it is based upon erroneous information provided by DCAA. See American Management Sys., Inc., Department of the Army--Recon., supra.

In response to our request, DCAA provided a statement describing the basis for its auditor's conclusions regarding AMCOMP's proposed indirect rates. This statement shows that the DCAA auditor's judgment was based upon his "general knowledge" of AMCOMP, particularly its increasing business base, and his belief that this increase would reduce the indirect rates proposed by AMCOMP in 1994 for another cost reimbursement contract and the certified indirect billing rates used by AMCOMP in 1993.<sup>11</sup> In the absence of better information, the Air Force reasonably accepted DCAA's informal rate check information in confirming the realism of AMCOMP's proposed costs.

Moreover, AMCOMP presented supporting information in response to this protest showing a breakdown of its indirect cost pool and discussing the increases in its direct labor cost base. This information confirms the direct relationship between increases in AMCOMP's direct labor costs and reductions in its indirect rates and reasonably shows that AMCOMP's proposed lower indirect rates are attributable to the firm's expected receipt of a follow-on contract, calling for considerably more hours than the prior contract, as well as award of this contract. These contracts will nearly [DELETED] AMCOMP's direct labor cost base.<sup>12</sup>

Intermetrics argues that the additional supporting information submitted by AMCOMP demonstrates that AMCOMP has unreasonably inflated its total direct labor costs and thus unreasonably reduced its proposed indirect rates. Specifically, Intermetrics argues that AMCOMP's total direct labor costs are based upon average salaries of [DELETED] to \$65,000, while the average salary for this contract was projected at approximately \$45,000.

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<sup>11</sup>As Intermetrics points out, DCAA does not have fully audited indirect rates for AMCOMP. Nevertheless, AMCOMP has certified its 1993 indirect rates for billing purposes. AMCOMP's 1993 billing and 1994 proposed indirect rates are [DELETED] AMCOMP's proposed indirect rates here.

<sup>12</sup>AMCOMP estimates that its total number of field employees will increase from [DELETED] in 1994 to [DELETED] in 1995 to [DELETED] in 1996.

Intermetrics has misread AMCOMP's supporting cost information. This information actually indicates that AMCOMP's anticipated total direct labor costs for 1995, were based upon an average salary of [DELETED] per year, not \$60,000 to \$65,000 per year as Intermetrics asserts. Intermetrics appears to be confused in this regard by AMCOMP's explanation that the increase in its average annual salary in 1994, to that estimated in 1995, was the result of anticipated hires of Los Angeles-based employees who will have average annual salaries between [DELETED] to [DELETED]; these Los Angeles-based employees will work on the follow-on contract AMCOMP expects to receive and not this protested contract.

Intermetrics also argues that the breakdown of AMCOMP's indirect cost pool indicates that AMCOMP has not allocated sufficient costs to provide for benefits promised in its technical proposal. We find no basis in the record to challenge the vast majority of the indirect costs identified by Intermetrics. For example, Intermetrics complains that AMCOMP provided insufficient costs to provide for the aggressive recruiting plan that AMCOMP promised in its technical proposal; the record shows, however, that AMCOMP's planned costs for recruiting incumbent personnel were proposed as [DELETED] costs and are not part of the indirect cost pool. Also, Intermetrics challenges AMCOMP's estimates of its costs for employee education and professional conferences; however, these costs were based upon AMCOMP's historical expenses and there is no indication that AMCOMP's historical figures are not adequate predictors of the firm's future costs for these items.

Intermetrics is correct in its assertion that AMCOMP promised to provide a dedicated telephone line from its field location in New Mexico to its corporate headquarters in Los Angeles, but failed to provide any costs for this promise in its proposal. However, it appears that the costs associated with providing a dedicated telephone line for this contract would be a relatively minor direct cost to the contract.<sup>13</sup> It is also true that AMCOMP understated the costs associated with providing employee [DELETED]; however, the record shows that the adjustment of AMCOMP's indirect rates to account for these costs would result in an average overhead rate increase of approximately [DELETED] percent for an increase in total costs of approximately [DELETED].

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<sup>13</sup>There is no information in the record to establish the probable costs of leasing a direct telephone line from New Mexico to California. In relation to AMCOMP's overall probable cost, this expense would appear to be relatively minimal.

We find no reasonable possibility of prejudice to Intermetrics arising from the agency's cost evaluation. Competitive prejudice is an essential element of every viable protest. Lithos Restoration Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379. Where an agency clearly violates procurement requirements, a reasonable possibility of prejudice is a sufficient basis for sustaining the protest. Foundation Health Fed. Servs., Inc.; QualMed Inc., B-254397.4; et al., Dec. 20, 1993, 94-1 CPD ¶ 3. On the other hand, where no possibility of prejudice is shown or is otherwise evident from the record, our Office will not sustain a protest, even if a deficiency in the procurement is apparent. Colonial Storage Co.--Re, B-253501.8, May 31, 1994, 94-1 CPD ¶ 335.

Here, there is more than a \$3 million difference between AMCOMP's and Intermetrics's evaluated costs for the core effort.<sup>14</sup> There is no possibility that any of the deficiencies which Intermetrics argues are in the agency's evaluation of AMCOMP's indirect rates will narrow this cost advantage in any significant way. As the Air Force points out, even if the agency had used AMCOMP's higher 1993 certified billing rates in its cost realism evaluation, this would only have resulted in an overall increase in AMCOMP's core effort proposal to [DELETED], or nearly [DELETED] million less than Intermetrics's offer. Even [DELETED] AMCOMP's 1993 indirect rates would not result in Intermetrics's proposal being evaluated as lower cost than AMCOMP's;<sup>15</sup> rather, AMCOMP's core effort proposal would still be [DELETED] less than Intermetrics's offer. Under the circumstances, we find no possibility of prejudice arising from the agency's cost realism evaluation of AMCOMP's indirect rates.

Intermetrics next complains that the agency's cost evaluators did not independently assess the sufficiency and cost risk of AMCOMP's proposed manning. In Intermetrics's view, the RFP required the agency's cost evaluators to assess the sufficiency of an offeror's proposed manning, even where this was already evaluated by the agency's technical evaluation team. We disagree. The RFP stated that the offerors' cost would be evaluated for realism "by assessing the compatibility of proposed costs with proposal scope and effort" and by reviewing the costs to determine if they "are realistic for the work to be performed." This

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<sup>14</sup>As noted, there is more than an \$8 million difference between these offerors' evaluated costs when both the core and task efforts are considered.

<sup>15</sup>There is no support in the record for a [DELETED] of AMCOMP's indirect cost rates.

does not mean that cost evaluators must perform their own technical review, but only that the agency would assess the compatibility of proposed costs with the offerors' proposed approach in determining cost realism. As Intermetrics concedes, the Air Force's technical evaluators found AMCOMP's proposed manning to be sufficient. And Intermetrics has failed to show that AMCOMP's proposed manning is understated in any regard. Accordingly, we see no basis to challenge this aspect of the agency's cost realism analysis.

Intermetrics next challenges the agency's technical evaluation, asserting that the agency's evaluation of innovative approaches amounts to the use of an unstated evaluation criterion. FAR § 15.605(e) requires the disclosure of all factors and significant subfactors that will be considered in making the source selection. Intermetrics argues that but for the agency's evaluation of the relative innovativeness of the offerors' approaches, its proposal would have been found even more technically superior to that of AMCOMP.<sup>16</sup> This contention is without merit.

Offerors were informed that the government sought and would evaluate innovative approaches to accomplishing the contract requirements. For example, the RFP's proposal preparation instructions provided that:

"In light of the nation's changing defense structure, the [g]overnment desires contractor support that is flexible and responsive to the changing mission requirements. Effective and efficient use of contractor personnel is needed to provide high quality support at reasonable costs. Any synergistic relationship in organization structure, manpower utilization, unique capabilities, etc., should be considered and cited in the appropriate section(s) of each proposal to assure the [g]overnment's understanding of such approach."

In this vein, the RFP directed that "[i]nnovative approaches should be discussed thoroughly and risks identified." Offerors were also informed that proposals would be assessed for "soundness of approach" for each evaluation factor and subfactor. This meant, according to the RFP, that each

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<sup>16</sup>Intermetrics does not otherwise challenge the agency's evaluation conclusions that found that AMCOMP had proposed a number of innovative approaches while Intermetrics's proposal was substantially a continuation of its current contract effort.

"proposal will be evaluated from the standpoint of adherence to sound practices and the offeror's approach to accomplish the technical goals and requirements of the [s]tatement of [w]ork (SOW)."

In our view, given the RFP's instructions to discuss innovative approaches and the provision for evaluation of the offerors' technical approaches, the only reasonable interpretation of the RFP, read as a whole, was that the agency would evaluate and give credit for offerors' proposed innovative approaches to accomplishing the contract requirements. See University Research Corp., B-253725.4, Oct. 26, 1993, 93-2 CPD ¶ 259. Accordingly, we find that the agency did not use an unstated evaluation factor when it considered the innovativeness of offerors' technical approaches.

Intermetrics also complains that AMCOMP's proposal was rated exceptional for its phase-in plan, which proposed recruiting Intermetrics's personnel, while Intermetrics's proposal was only rated as acceptable under the phase-in subfactor, notwithstanding that Intermetrics, as the incumbent, did not require a phase-in period and had proposed retaining its current personnel.

AMCOMP's proposal was, we find, reasonably rated exceptional under the phase-in subfactor, given AMCOMP's detailed and well-conceived phase-in plan, which proposed to aggressively recruit Intermetrics's personnel. We find no basis, however, for the agency's rating of Intermetrics's proposal as only acceptable under the phase-in subfactor, where the agency's evaluators recognized that Intermetrics, as the incumbent contractor, proposed retaining its current personnel and thus had no phase-in requirement. In essence, the agency's scoring for this subfactor is grounded upon the agency's conclusion that AMCOMP's offer to attempt to hire Intermetrics's personnel exceeds the contract requirements for phase-in while Intermetrics's offer to retain the same personnel only satisfies the contract requirements. There is no reasonable explanation in the record for the agency's disparate ratings of the two offerors' proposals under this subfactor.

Nevertheless, the record indicates that the SSA was aware of the offerors' actual strengths underlying the evaluators' adjectival scoring for the phase-in subfactor. The source selection evaluation team report not only informed the SSA of AMCOMP's "exceptional" phase-in plan, but of the fact that "Intermetrics is the incumbent and as such did not propose a phase-in plan. As the incumbent they proposed to retain all of the current employees, thus no phase-in risk will be incurred"; similarly, Intermetrics's proposal to

retain all existing core employees was disclosed to the SSA during the source selection briefing.

Source selection officials are not bound by evaluators' adjectival or numerical ratings of proposals but appropriately may assess the underlying technical differences in proposals that form the bases for the rating. See Tri-Cor Indus., Inc., B-252366.3, Aug. 25, 1993, 93-2 CPD ¶ 137, recon. denied, B-252366.4, Mar. 8, 1994, 94-1 CPD ¶ 185. Given the SSA's knowledge and consideration of the firms' actual proposal strengths under this subfactor, we find that Intermetrics was not prejudiced by the evaluators' disparate adjectival rating of the two firms' proposals. In any case, even absent the SSA's awareness of the actual strengths underlying each firms' proposals, we fail to see any prejudice to Intermetrics arising from the agency's adjectival ratings under this less important subfactor, given the enormity of AMCOMP's evaluated cost advantage.<sup>17</sup> Id.

Intermetrics finally complains that AMCOMP materially misrepresented the commitment of key personnel to this contract. Specifically, Intermetrics argues that in accordance with the RFP requirements AMCOMP identified key personnel that it intended to use in contract performance, but that since award AMCOMP has attempted to hire Intermetrics's employees for a number of its proposed key personnel positions. In addition, Intermetrics argues that the [DELETED] key personnel proposed by AMCOMP, which are all current AMCOMP employees, are not located in New Mexico and that AMCOMP failed to provide firm commitments from the [DELETED] employees indicating their intention to relocate to New Mexico.

An offeror's misrepresentation concerning personnel that materially influences an agency's consideration of its proposal generally provides a basis for proposal rejection or termination of a contract award based upon that proposal. ManTech Advanced Sys. Int'l, Inc., B-255719.2, May 11, 1994, 94-1 CPD ¶ 326. A misrepresentation is material where an agency has relied upon the misrepresentation and that misrepresentation likely had a significant impact on the evaluation. Id. We find from our review of the record that AMCOMP did not misrepresent the availability or commitment of its key personnel.

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<sup>17</sup>The phase-in subfactor is the second most important subfactor under the less important management evaluation factor.

First, we do not agree with Intermetrics that offerors were required to provide commitments for its proposed key personnel. The RFP required that offerors include in their management proposals "the resumes of key personnel proposed for this acquisition, documentation showing commitment and/or availability, and your rationale for the selection of the key personnel that you are proposing." Offerors were informed that key personnel qualifications would be evaluated using the assessment criteria of currency, depth of experience, and certification of personnel availability. Regarding the certification of availability, offerors were further informed that "[s]tatements or data showing that the offeror has a firm commitment for key personnel proposed and stating their availability in the event of contract award will be assessed." In our view, the solicitation reasonably informed offerors that they must provide documentation showing commitment, availability, or both for their proposed key personnel, and that the commitment and/or availability of proposed key personnel would be evaluated.

Here, AMCOMP proposed [DELETED] key personnel. For each individual, AMCOMP submitted a resume stating that the individual was a current AMCOMP employee and available to support this contract. We find that this satisfied the solicitation's requirement that offerors provide documentation showing commitment and/or availability. Id.; Laser Power Technologies, Inc., B-233369; B-233369.2, Mar. 13, 1989, 89-1 CPD ¶ 267.

Intermetrics argues nonetheless that while AMCOMP provided resumes of its current employees for proposed key personnel and stated that these employees were available, AMCOMP's proposal also stated that it would attempt to hire [DELETED] percent of the incumbent work force, which would include [DELETED] incumbent personnel to fill key positions. Intermetrics asserts that this indicates that AMCOMP in its contract performance did not intend to use the key personnel it proposed and that this "misrepresentation" misled the agency in its evaluation.

AMCOMP responds that it proposed available, current employees for its key personnel and that AMCOMP is committed to using these employees. AMCOMP also states that, as it informed the agency in its proposal, it will aggressively recruit the incumbent work force and that AMCOMP would be prepared to offer some incumbent workers as key personnel, if that were the agency's preference.

We fail to see how AMCOMP's proposal representations concerning its proposed key personnel are false or misleading, or that the Air Force was misled in any regard concerning AMCOMP's proposal. The record shows that the agency correctly recognized in its evaluation that AMCOMP

proposed key personnel that were current employees and available but also offered, as encouraged by the RFP, to aggressively recruit the incumbent work force.<sup>18</sup> Rather than being misled, as Intermetrics suggests, the record indicates that the agency was reasonably assured from AMCOMP's proposal that AMCOMP would either provide as key personnel the current employees whose resumes were provided by AMCOMP or would provide incumbent personnel that were currently performing the contract work.

In sum, we find no prejudicial errors that effect the reasonableness of the agency's selection of AMCOMP's slightly lower-rated, but substantially lower-cost, proposal.

The protest is denied.

Robert P. Murphy  
General Counsel

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<sup>18</sup>The RFP specifically encouraged the employment of incumbent personnel and stated that the Intermetrics, as the incumbent contractor, was contractually required to cooperate with a successor contractor by making available records and other data relating to its current work force and permitting its current employees to be interviewed for possible employment.

<sup>19</sup>We also note that the RFP did not require the agency's approval of key personnel substitutions or incorporate the successful offeror's proposal into the contract (other than its phase-in plan); accordingly, a contractor would be free to substitute its key personnel after contract award.